



## **FACTUAL HISTORY**

On August 21, 2012 appellant, then a 38-year-old mail handler, filed a traumatic injury claim alleging that she injured her lower back while working on an understaffed machine on August 13, 2012. In reports dated August 15 and September 27, 2012, Dr. Gaurv Bhalia, an internist, diagnosed severe low back pain after heavy lifting at work.

In a form report dated September 18, 2012, Dr. Manmeet Singh, a Board-certified internist, diagnosed severe lumbosacral pain after lifting a heavy object at work.

By decision dated October 16, 2012, OWCP denied appellant's claim. It accepted that she worked on August 13, 2012, but found that she did not submit sufficient medical opinion to establish a causal relationship between her low back condition and her employment incident.

Appellant requested reconsideration on November 6, 2012 and submitted additional medical evidence. In a report dated November 6, 2012, Dr. Melanie Hanna-Johnson, a Board-certified internist, stated that appellant reported severe low back pain on August 15, 2012. She opined that appellant sustained injury while at work lifting heavy tubs of mail.

By decision dated January 28, 2013, OWCP denied appellant's claim for traumatic injury. It found that the medical evidence did establish a causal relationship between her low back condition and the accepted employment incident.

Appellant requested reconsideration of the January 28, 2013 decision on July 6, 2013 by a checkmark on an appeal form. She did not submit any additional evidence.

By decision dated August 7, 2013, OWCP declined to reopen appellant's claim for consideration of the merits. It found that she failed to include any information or evidence in support of her July 6, 2013 request for reconsideration.

## **LEGAL PRECEDENT**

FECA provides in section 8128(a) that OWCP may review an award for or against payment of compensation at any time on its own motion or on application by the claimant.<sup>3</sup> Section 10.606(b) of the Code of Federal Regulations provide that a claimant may obtain review of the merits of the claim by submitting in writing an application for reconsideration which sets forth arguments or evidence and shows that OWCP erroneously applied or interpreted a specific point of law; or advances a relevant legal argument not previously considered by OWCP; or includes relevant and pertinent new evidence not previously considered by OWCP.<sup>4</sup> Section 10.608 of OWCP's regulations provide that when a request for reconsideration is timely, but does meet at least one of these three requirements, OWCP will deny the application for review without reopening the case for a review on the merits.<sup>5</sup>

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<sup>3</sup> 5 U.S.C. §§ 8101-8193, 8128(a).

<sup>4</sup> 20 C.F.R. § 10.606.

<sup>5</sup> *Id.* at § 10.608.

### ANALYSIS

By decisions dated October 16, 2012 and January 28, 2013, OWCP denied appellant's claim for a low back condition on the grounds that she did not submit sufficient medical evidence. Appellant requested reconsideration on July 6, 2013 by a checkmark on an appeal form. The record does not reflect that she submitted any evidence in support of her July 6, 2013 request for reconsideration. As appellant did not comply with the requirements of section 10.606(b)(3), OWCP properly declined to reopen her claim for consideration of the merits.

### CONCLUSION

The Board finds that OWCP properly declined to reopen appellant's claim for consideration of the merits.

### ORDER

**IT IS HEREBY ORDERED THAT** the August 7, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 15, 2014  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board